



## TEXAS DEPARTMENT OF INSURANCE

### Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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## MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

### GENERAL INFORMATION

**Requestor Name**

Angela Skrabanek, O.T.R.

**Respondent Name**

Texas Mutual Insurance Company

**MFDR Tracking Number**

M4-16-2997-01

**Carrier's Austin Representative**

Box Number 54

**MFDR Date Received**

May 31, 2016

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "On 7 31 15 Angela Skrabanek, OT performed a DD requested FCE ... In her report it clearly stated the 'actual face time' with the patient.

For the Cardiovascular Intake, the KASCH Step Test was performed which under rule 134.204(g) it states 'submaximal cardiovascular endurance tests which measure aerobic capacity using stationary bicycle or treadmill'. The rule does not state that a KASCH test cannot be used. However Ms. Skrabanek submitted a Single Stage Treadmill Method which was sent with the reconsideration and a denial was still done."

**Amount in Dispute:** \$846.24

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "This claim is in Texas Mutual's Texas Star Network ... Therefore, this matter must be dismissed ...

The documentation does not support a complete Functional Capacity evaluation as required in Division Rule 134.204 (g)(3) ... MFDR has determined that Division Rule 134.204 (g)(3) requires submaximal cardiovascular endurance tests which measure aerobic capacity *using stationary bicycle or treadmill* ...

... the documentation submitted does not support the units billed. The documentation ... states, 'The evaluation began at 12:15 PM and was completed at 4:15 PM (*report compilation included*)'. Documentation for a Functional Capacity Evaluation must support time for evaluation and testing only. The interpretation/report time is an integral part of the FCE reimbursement and should not be included in the billing time."

**Response Submitted by:** Texas Mutual Insurance Company

### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
July 31, 2015	Functional Capacity Evaluation (16 units)	\$846.24	\$845.60

## ***FINDINGS AND DECISION***

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

### **Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §127.10 sets out the procedures for designated doctors.
3. 28 Texas Administrative Code §134.203 sets out the fee guidelines for professional medical services.
4. 28 Texas Administrative Code §134.204 sets out the fee guidelines for division-specific services from March 1, 2008 until September 1, 2016.
5. Texas Labor Code §408.0041 grants the Division of Workers' Compensation the authority to order designated doctor examinations.
6. Texas Insurance Code §1305 puts forth the requirements for claims subject to certified health care networks.
7. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - A07 – Documentation does not meet the level of service required for FCE per rule 134.204(g)(3)(C).
  - CAC-150 – Payer deems the information submitted does not support this level of service.
  - CAC-193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
  - 724 – No additional payment after a reconsideration of services.
  - CAC-18 – Exact duplicate claim/service
  - 224 – Duplicate charge.

### **Issues**

1. Is the dispute in question eligible for medical fee dispute resolution in accordance with 28 Texas Administrative Code §133.307?
2. Are Texas Mutual's documentation-based denials supported?
3. Is reimbursement due for the FCE in dispute?

### **Findings**

1. Angela Skrabanek, O.T.R. is seeking reimbursement for a Functional Capacity Evaluation (FCE) performed July 31, 2015 in response to a referral from Designated Doctor Michael Mann. Texas Mutual Insurance Company (Texas Mutual) argued in its position statement that "this claim is in Texas Mutual's Texas Star Network ... Therefore, this matter must be dismissed." The division finds that the requestor is not in the Texas Star Network.

Designated doctor referrals are authorized under the Texas Labor Code and division rules. Texas Insurance Code Chapter 1305 contains a provision which limits applicability of certain 1305 Network requirements when they adversely affect powers granted to the division under the Labor Code. Specifically, Texas Insurance Code §1305.003 states, in pertinent part, that:

- (a) This chapter [TIC 1305] does not affect the authority of the division of workers' compensation of the department to exercise the powers granted to the division under Title 5, Labor Code, that do not conflict with this chapter [TIC 1305].

Texas Labor Code §408.0041 grants the division the exclusive authority to order a designated doctor to examine an injured employee and resolve questions or disputes over the injured employee's medical condition. 28 Texas Administrative Code §127.10 in turn authorizes designated doctors to make referrals when necessary to resolve the question(s) the designated doctor was ordered to address.

Because the services in question were provided under the authority of the Texas Labor Code and not under a certified health care network, the division concludes that the services are eligible for medical fee dispute resolution in accordance with 28 Texas Administrative Code §133.307.

2. Texas Mutual denied the services in question with claim adjustment reason codes A07 – “DOCUMENTATION DOES NOT MEET THE LEVEL OF SERVICE REQUIRED FOR FCE PER RULE 134.204(G)3(C),” and CAC-150 – “PAYER DEEMS THE INFORMATION SUBMITTED DOES NOT SUPPORT THIS LEVEL OF SERVICE.”

Texas Mutual argued these denial reasons in two ways:

- Texas Mutual claimed that the documentation does not support a complete FCE, asserting that a “KASCH STEP TEST” was used and that “submaximal cardiovascular endurance tests which measure aerobic capacity *using stationary bicycle or treadmill*” are required.
- Texas Mutual claimed that the documentation does not support the number of units billed.

28 Texas Administrative Code §134.204(b) and (g) contain the billing and documentation requirements for an FCE as follows:

- §134.204(g)(3)(C) states, in relevant part, that FCEs shall include functional ability tests, which include “submaximal cardiovascular endurance tests which measure aerobic capacity using stationary bicycle or treadmill.”
- §134.204(g) requires health care providers to bill FCEs using CPT Code 97750 with modifier “FC.”
- §134.204(b)(1) requires health care providers to bill their usual and customary charges using the most current Level I (CPT codes). According to American Medical Association (AMA) Current Procedural Terminology (CPT) Code 97750-FC is a timed code, billed in 15-min increments, which includes direct patient contact and a written report.
- §134.204(g) requires that FCEs shall be reimbursed in accordance with §134.203(c)(1). Rule §134.203(c)(1) in turn states that health care providers **shall apply the Medicare payment policies** [emphasis added] with minimal modifications.
- Applicable Medicare policy found in the Medicare Claims Processing Manual 100-04, Chapter 5 titled *Part B Outpatient Rehabilitation*, Section 20.2-Reporting of Service Units describes the Medicare requirements for counting minutes for timed codes including 97750.
- Section 20.2, paragraph C: “Counting Minutes for Timed Codes in 15 Minute Units” states the amount of time for each specific intervention/modality provided to the patient is **not required to be documented** [emphasis added] in the Treatment Note. However, the total number of timed minutes must be documented.

Documentation submitted to the division by Ms. Skrabanek supports that a “Single Stage Treadmill” test was performed, in accordance with 28 Texas Administrative Code §134.204(g)(3)(C).

Review of the medical bill finds that Ms. Skrabanek billed 16 units for procedure code 97750-FC. Review of the FCE report finds a documented start time of 12:15 AM, and a documented end time of 4:15 PM. The division finds that the documentation sufficiently supports that the total number of timed minutes resulted in 16 billable units for procedure code 97750-FC when compared to the requirements of Medicare Claims Processing Manual 100-04, Chapter 5, Section 20.2, paragraph C. It is concluded that Texas Mutual’s documentation denials are therefore, not supported.

3. 28 Texas Administrative Code §134.204(g) adopts the 28 Texas Administrative Code §134.203(c) MAR calculation by reference. The Medicare fee is the sum of the geographically adjusted work, practice expense and malpractice values multiplied by the conversion factor. The MAR is calculated by substituting the division conversion factor. The Division conversion factor (DWC CF) for 2015 is \$56.20.

The geographic practice cost index (GPCI) for work is multiplied by the relative value (RVU) for work. The practice expense (PE) GPCI is multiplied by the PE RVU. The malpractice (MP) GPCI is multiplied by the MP RVU. The sum of the calculations is multiplied by the Division conversion factor.

The MAR is calculated as follows:

Procedure	GPCI Work	GPCI PE	GPCI MP	Work RVU	PE RVU	MP RVU	Units	SUM	DWC CF	MAR/ Unit	Total MAR
97750-FC	1.019	1.006	0.955	0.45	0.46	0.02	16	$(1.019 \times 0.45) + (1.006 \times 0.46) + (0.955 \times 0.02) = 0.940410$	\$56.20	\$52.85	$\$52.85 \times 16 = \$845.60$

The total MAR for the disputed services is \$845.60. This amount is recommended.

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$845.60.

### ***ORDER***

Based on the submitted information, pursuant to Texas Labor Code Sec. 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services in dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$845.60, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

### **Authorized Signature**

Signature	Laurie Garnes Medical Fee Dispute Resolution Officer	December 22, 2016 Date
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### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**